IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.883 OF 2006

Andheri East Welfare Association.....Petitioner

Vs.

The State of Maharashtra & Ors.Respondents

Mr.S.Naphade with Mr. R.D.Soni and Mr. V.J. Hegde, for the Petitioner
Mr. A.A.Sayed, AGP for respondent No.1.
Mr. R.M. Sawant, Govt. Pleader for respondent NO.2.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE : 25th April,2006

P.C.:

. Rule. Heard forthwith.

2. Respondent No..2 is in the process of widening Andheri-Kurla Road and Marol Maroshi Road to the width as is sanctioned by the Development Plan under the Mumbai Urban Infrastructure Project (MUIP). It is the case of the petitioners that while carrying out the said widening the respondents are not following the rehabilitation and resettlement policy of the State Government dated 12th December, 2000 which was brought into force in respect of MUI Project vide Government Resolution dated 14th November, 2005. It is further contended that the respondents are not taking into consideration the large scale displacement that would be caused to the occupants of land and structures presently abutting the road. It is not necessary for us to refer to the various other averments and the reference made to the various acts considering the reply filed on behalf of the

respondents.

2. On 12th April, 2006 an affidavit has been filed by Subodh Vinayak Pagnis, Executive Engineer of Respondent No.2. It is pointed out that Andheri Ghatkopar Link Road (AGLR) is a D.P. Road having a sanctioned road line of width 36.60 meters for a substantial part and 45.7 metres for the rest of the portion. It is pointed out that the petitioners herein had earlier filed Writ Petition NO.2743 of 2005 which was disposed of by an order of this Court dated 7th February, 2006. The order sets out as under:-

> "An affidavit in reply has been filed that necessary steps will be taken and a notification has been issued on 14th February, 2005 to rehabilitate those with eligibility as on 1st January, 2000."

This was done as earlier the cut-off date was 1st January, 1995 and in so far as MUIPare concerned it has been extended to 1st January, 2000. It is pointed out that there are encroachment on the said road and unless the encroachment are removed the road cannot be widened and the storm water drainage cannot be constructed. The Deputy Collector (Encroachment) was the Competent Authority who had decided the eligibility of the affected persons who had their structures within the width of the said

road. The eligibility was decided as per cut-off date 1st January, 2005. After issuance of the Government Resolution dated 14th November, 2005 eligibility was considered on the basis of cut-off dated 1st January, 2000. Prior to the eligibility being decided survey was also carried out by the NGO known as SPARC. The affected structures were also given notice. In accordance with the map which depicted the affected structures, demolition of some of the structures was carried out on 28th March, 2006. In terms of the eligibility fixed, permanent alternate accommodation has been allotted to 107 persons at Tata Nagar, Govandi and Poonam Nagar, Jogeshwari and Oshiwala. Most of the persons who have been held to be eligible have been allotted permanent alternate accommodation at the aforesaid places.

3. It is also pointed out that out of affected structures, more than 90% are partially affected and it is only 10% which are totally affected. The affiant sets out that the present petition appears to be instigated by persons who do not desire to shift from their present location and who are mostly hoteliers. It is also pointed out that there are 6-7 large structures admeasuring about 500 to 1600 sq.ft. who are opposing such removal and rehabilitation at another place. Considering the deluge on 26th July, 2005 the respondents are trying to complete the widening of the road by 31st May,

2006 so that the surrounding areas of the road itself are not affected by the water logging. An additional affidavit thereafter was filed pursuant to the directions of this Court on 18th April, 2006. It has been explained in the said affidavit that the list of eligible persons as per cutoff date 1st January, 2000 has been submitted by the Deputy Collector (ENC) to the Respondent No.2 in March, 2006. It is pointed out that there are six separate lists for the six portions of the said road which is of the total length of about 4 Kms. In answer to the contention by the petitioners that there are 3 alternate sites it has been explained that the respondent No.2 has nothing to with the said sites as those sites are not owned by the petitioners, but are belonging to the Mumbai Municipal Corporation, Airport Authority of India and the Dairy Development Department. In these circumstances it is pointed out that it would not be possible for the respondent No.2 to allot any site for rehabilitation at the 3 places.

4. From the above it is clear that a list of persons who are eligible based on the cutoff date 1-1-2000 has been prepared. It has also been pointed out that in respect of those persons, who may be aggrieved by the order of non-consideration or rejection of their claim an Appeal is provided and the Appeal lies to the Additional Collector (Western Suburbs).

5. On behalf of the petitioner learned Counsel points out that no notification has been produced and on the contrary they were informed that the Additional Collector has not been notified as the Appellate Authority.

6. Whatever be the position, it will not be possible for this Court to stop the widening of the D.P. Road as it is in the larger public interest. All that the petitioner are entitled to is rehabilitation of those who are entitled in terms of the policy of the Government. That exercise has already been done. The respondent No.2 to make available to the petitioners the copy of the list along with the plan showing the structures. Needless to say that the list must disclose as to the persons whose claim has been accepted and whose claim has not been considered or rejected. In so far as those persons whose claim has been rejected it will be open to them to prefer an Appeal to the Additional Collector (Western Suburbs) as informed to this Court on behalf of the State Government by the learned A.G.P. If such Appeals are preferred those appeals to be heard and disposed of expeditiously. With the above direction petition stands disposed of.

(F.I.REBELLO, J.)

(ANOOP V. MOHTA, J)